

SCHOOL DISTRICT  
STATE LEGAL COMPLIANCE AUDIT PROGRAM  
FOR FISCAL YEAR 2009-2010

Initials      Date

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

For Workpapers: \_\_\_\_\_ through \_\_\_\_\_

**SCHOOL DISTRICT**  
**State Legal Compliance Audit Program**  
**For the Fiscal Year Ending June 30, 2010**

**SUMMARY OF STATE LEGAL COMPLIANCE CONCLUSIONS:**

**State Code Section and Title:**

**Compliance Results:**

**W/P Ref.**

**Surety Bonds:**

Section 37-6-15 - Board Members	YES	NO	N/A	_____
Section 37-9-27 - Superintendent	YES	NO	N/A	_____
Section 37-9-31 - Principals	YES	NO	N/A	_____
Section 37-39-21 - Purchasing Agents	YES	NO	N/A	_____

**Purchasing:**

Section 31-7-13 - Purchasing	YES	NO	N/A	_____
Section 73-13-45 - Architect/Engineer	YES	NO	N/A	_____
Section 31-3-15 - Cert. of Responsibility	YES	NO	N/A	_____
Section 31-5-51- Bonds	YES	NO	N/A	_____

**Financial Statements:**

Section 37-9-18 - Monthly Financials	YES	NO	N/A	_____
Section 37-61-21(2) - Year-End Financials	YES	NO	N/A	_____

**School Depositories and Securities to be Deposited:**

Section 37-7-333	YES	NO	N/A	_____
Section 27-105-305/315	YES	NO	N/A	_____

**Education Enhancement Funds:**

Section 37-61-33(2) - Building and Buses	YES	NO	N/A	_____
Section 37-61-33(3)(a)(iv) - Classroom Supplies	YES	NO	N/A	_____

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Compliance Results:

W/P Ref.

**Sixteenth Section Funds:**

Section 29-3-113 - Principal Funds	YES	NO	N/A	_____
Section 29-3-119 - Shared Funds	YES	NO	N/A	_____
Section 29-3-121 - Children's List	YES	NO	N/A	_____
Section 29-3-111 - Interest Funds	YES	NO	N/A	_____
Section 29-3-57 - Lease termination	YES	NO	N/A	_____
Section 29-3-115 - Expenditures - Interest Funds	YES	NO	N/A	_____
Section 29-3-117 - Transfers	YES	NO	N/A	_____
Section 29-3-47 - Forestry Escrow Funds	YES	NO	N/A	_____
Section 29-3-131 - Expenditures	YES	NO	N/A	_____

**Unemployment Compensation Fund Balance:**

Section 71-5-359	YES	NO	N/A	_____
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**Limitations on Ad Valorem Taxes:**

Section 37-57-1 - Tax levy and collection	YES	NO	N/A	_____
Section 37-57-104(105) - Tax Request / Preparation	YES	NO	N/A	_____
Section 37-57-107 - Limitation (Escrow Calculation)	YES	NO	N/A	_____
Section 37-57-108( 27-39-333) - Shortfall Calculation	YES	NO	N/A	_____

**Budgeting:**

Section 37-61-19 - Budget Preparation	YES	NO	N/A	_____
Section 37-61-9(4) - Administrative Limitation	YES	NO	N/A	_____

**Investments:**

Section 37-59-43	YES	NO	N/A	_____
Section 29-3-113 - Sixteenth Section Principal Funds	YES	NO	N/A	_____

**Revenue Anticipation Notes:**

Section 37-59-37	YES	NO	N/A	_____
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**Appropriate Coding at the Function Level for Expenditures:**

Section 37-9-18	YES	NO	N/A	_____
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Compliance Results:

W/P Ref.

**Public Employees' Retirement System:**

Section 25-11-127

YES      NO      N/A      \_\_\_\_\_

**Other Tests:**

\_\_\_\_\_ YES      NO      N/A      \_\_\_\_\_

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**SURETY BONDS**

A. Prepare a schedule of surety bonds. \_\_\_\_\_

B. Section 37-6-15. (Board Members) and Section 25-1-19. (Recording)

1. Determine that bonds are at least \$50,000. \_\_\_\_\_

*NOTE: See explanation for G. (1).*

C. Section 37-9-27. (Superintendent)

1. Determine that bond is \$100,000. \_\_\_\_\_

*NOTE: See explanation for G. (1).*

*NOTE: If the superintendent is also the purchasing agent, see section G. (2).*

D. Section 37-9-31. (Principals)

1. All school principals and attendance center principals are bonded in the amount of \$25,000. (Effective 7-1-2009 - amount = \$50,000) \_\_\_\_\_

*NOTE: See explanation for G. (1).*

*NOTE: If a principal is also a purchasing agent, see section G. (2).*

E. Section 37-39-21. (Purchasing Agent(s))

1. Bond is set in the amount of \$50,000. \_\_\_\_\_

*NOTE: See explanation for G. (3)*

F. Prepare compliance overview working paper. \_\_\_\_\_

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**SURETY BONDS - Cont'd**

- G. The following guidance is based on the Attorney General's Opinion to Harold C. Middleton dated April 26, 1996:
1. Individual bonds are required for board members, superintendents and purchasing agents since the statutes requiring such bonding refers to "a" bond. See Section 25-1-15(1) for form for individual bonds for board members and superintendents and Section 25-1-15(2) for form for individual bonds for purchasing agents. Since the statute applicable to principals refers to "bonds," principals are not required to have individual bonds. Such positions may be covered by a blanket bond so long as the blanket bond(s) complies with the requirements of Section 25-1-15(4) wherein each position and the requisite amount of coverage for each position is listed.
  2. If an individual is serving in more than one position for which bonding is required, the individual must be bonded for each position and the total coverage must equal the combined bonding requirements for the positions in which employed. For example, a superintendent also serving as a purchasing agent would be required to be bonded for \$100,000 as a superintendent and for another \$50,000 as a purchasing agent. Also, if a principal is serving as a purchasing agent, the same requirements apply. Normally, this happens with decentralized activity funds.
  3. § 37-39-1 (b) defines a "purchasing agent" as follows: "Purchasing agent" shall mean the superintendent, or other individual or individuals designated by the school board or by the school boards acting jointly as its agent or agents to negotiate and make private contract or to purchase. Therefore, the auditor should ensure that all purchasing agents are designated by the school board through the minutes or board policy by position.

**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for surety bonds, and the results of these procedures are adequately presented in the accompanying working papers.

Section 37-6-15 - Board Members	YES	NO	N/A
Section 37-9-27 - Superintendent	YES	NO	N/A
Section 37-9-31 - Principals	YES	NO	N/A
Section 37-39-21 - Purchasing Agents	YES	NO	N/A

**REMARKS**

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**PURCHASING**

Sections 31-7-13, 73-13-45, 31-3-15, 31-5-51

- A. Select a sample of purchase orders with total prices between \$5,001 and \$25,000. (July 1, 2008-April 15, 2009).

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Select a sample of purchase orders with total prices between \$5,001 and \$50,000. (April 15, 2009-June 30, 2009). (There are different rules for ARRA funds but no school district expended ARRA funds in MS for the 2009 fiscal year.)

- B. Determine that at least two competitive written bids were received or it was purchased from a state contract or it was priced at or below the state contract amount for an identical commodity or it was purchased based on competitive bid procedures established by the levying authority.

*Note: Bids may be submitted by facsimile, electronic mail and require a signature unless submitted by electronic transmission and is not required by the governing authority.*

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- C. Select a sample of purchase orders, each totaling more than \$25,000. (\$50,000 after April 15, 2009.)

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- D. Determine that the district properly advertised for competitive sealed bids and it was purchased based on competitive bid procedures established by the governing authority or it was purchased from a state contract or it was priced at or below the state contract amount for an identical commodity or it was purchased based on competitive bid procedures established by the levying authority or another school district within the county.

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*NOTE: The amounts shown in A and C would be considered exclusive of freight and shipping charges. Freight and shipping charges would be considered when selecting the lowest and best bid.*

*NOTE: The appropriate state contract or express product list (by ITS) should be reviewed to ensure compliance with the contract for B and D above.*

- E. Determine that the lowest and best bid was accepted and if a bid other than the lowest bid was accepted, appropriate justification for this selection is documented in the board minutes.

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F. If the bid accepted was for construction, and:

1. ensure that if the amount exceeded \$25,000, ensure that: § 31-5-51 was met

a. A performance bond payable to the school district for the work to be done, and \_\_\_\_\_

b. A payment bond payable to the school district but conditioned for prompt payment of all persons supplying labor and material used for the amount of the contract, or \_\_\_\_\_

c. A cash bond has been deposited with the State Treasurer in lieu of bonds. \_\_\_\_\_

2. if the amount exceeded \$75,000,

a. A licensed professional architect or engineer was retained, § 73-13-45 and \_\_\_\_\_

b. The contractor holds a certificate of responsibility. § 31-3-15 \_\_\_\_\_

G. Determine that adequate documentation exists for:

1. Emergency purchases. \_\_\_\_\_

2. One-source only purchases. \_\_\_\_\_

3. Repairs to equipment where bids were not received. \_\_\_\_\_

*NOTE: Replacement of complete assemblies, such as engines and transmissions, would be subject to bid requirements. If the district is charged a "core" charge, ensure that they get credit for the deposit "core" charge.*

*NOTE: Emergency purchases §31-7-13(k) If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefore in making such purchase or repair shall approve the bill presented therefore, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.*

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*NOTE: Noncompetitive items available from one (1) source only. §31-7-13 (m)(viii) In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the governing authority with the board of the governing authority. Upon receipt of that certification, the board of the governing authority may, in writing, authorize the purchase, which authority shall be noted on the minutes of the board at the next regular meeting thereafter.*

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- H. Determine that lease-purchase contracts were made pursuant to the same bid requirements as for the purchase of such equipment or furniture. \_\_\_\_\_
  
- I. Determine that funding for such lease-purchase contracts, if not obtained from the vendor, was obtained pursuant to the requirements of Section 31-7-13 (e) and such contracts do not exceed five (5) years. \_\_\_\_\_
  
- J. Prepare compliance overview working paper. \_\_\_\_\_

*NOTE: Transactions selected as part of other tests, i.e., internal control, substantive, etc., can also be used for purchasing law test procedures. Additional items should be selected based on the auditor's judgment.*

CONCLUSION

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for purchasing, and the results are adequately presented in the accompanying working papers.

Section 31-7-13	YES	NO	N/A
Section 73-13-45	YES	NO	N/A
Section 31-3-15	YES	NO	N/A
Section 31-5-51	YES	NO	N/A

REMARKS

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**SCHOOL DISTRICT  
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**FINANCIAL STATEMENTS**

**Sections 37-9-18**

- A. Determine by observation or inquiry that the superintendent has furnished to the school board a financial statement of receipts and disbursements, by funds, on or before the last working day of the following month covering the prior month.

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**Sections 37-61-21(2)**

- B. Determine if the district had the year-end financial statements available for audit on or before October 15, 2009.

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*NOTE: §37-61-21 (2) On or before the fifteenth day of October of each year, the local school board of each school district, with the assistance of the school district superintendent, shall prepare and file with the State Department of Education year-end financial statements and any other budgetary information that the State Board of Education may require. The State Board of Education shall prescribe and provide forms to each school district for this purpose. No additional changes may be made to the financial statements after October 15 of each year.*

- C. Prepare compliance overview working paper.

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**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for financial statements, and the results are adequately presented in the accompanying working papers.

Section 37-9-18	YES	NO	N/A
Section 37-61-21(2)	YES	NO	N/A

**REMARKS**

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**SCHOOL DEPOSITORIES AND SECURITIES TO BE DEPOSITED**

**Section 37-7-333.**

- A. Determine that the school district has advertised for bids for all of its depositories. \_\_\_\_\_

*NOTE: The school board may advertise and accept bids for depositories once every three (3) years when the board determines that it can obtain a more favorable rate of interest and less administrative processing.*

- B. Determine if a bank submitted a bid, which if accepted, would have resulted in a contract in which a member of the school board had a direct or indirect interest. If such a bid was received, the school board should have not opened or considered any bids received. The superintendent of schools should have submitted the matter to the State Treasurer, who has the authority to solicit bids, select a depository or depositories, make all decisions and take any action within the authority of the school board under this section relating to the selection of a depository or depositories. \_\_\_\_\_

- C. Ensure that the funds of the district are not deposited in banking institutions not chosen in the bid selection process. \_\_\_\_\_

- D. Sections 27-105-5, 27-105-305 and 27-105-315. \_\_\_\_\_

1. Determine that the selected depositories are covered by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings & Loan Insurance Corporation (FSLIC). \_\_\_\_\_
2. Ensure that the amount on the State Treasurer's report by banking institution is sufficient to collateralize the remaining school district's bank balances. \_\_\_\_\_
3. Determine that the school district personnel has reviewed the state treasurer's report summarizing the collateralization of district funds to ensure proper reporting of each bank balance on deposit for all of the school district accounts. \_\_\_\_\_

**NOTE: §27-105-5. (6) Public depositors shall comply with the following requirements:**

- (a) A public depositor shall ensure that the name of the public depositor and its tax identification number are on the account or certificate provided to the public depositor by the qualified public depository in a manner sufficient to disclose the identity of the public depositor;*
- (b) Not later than thirty (30) days following its fiscal year end, a public depositor shall notify the State Treasurer of its official name, address, federal tax identification number, and provide a listing of all accounts that it had with qualified public depositories, including the deposit balance in those accounts, as of its fiscal year end. A public entity established during the year shall furnish its official name, address and federal tax identification number to the State Treasurer before making any public deposit.*

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**SCHOOL DEPOSITORIES AND SECURITIES TO BE DEPOSITED - Cont'd**

**Section 37-7-333.**

- E. Ensure the district has on file the Collateral Security Agreements with the State Treasurer's Office. (The district is only required to enter the agreement once.)

N/A

**NOTE: *Public entities are required to enter into a Collateral Security Agreement with the State Treasurer acting as the signatory to affect the intent of Section 27- 105-5. Op.Atty.Gen. No. 2003-0694, Ross, February 28, 2003.***

- F. Prepare compliance overview working paper.

**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for school depositories and securities to be deposited, and the results are adequately presented in the accompanying working papers.

Section 37-7-333	YES	NO	N/A
Section 27-105-305	YES	NO	N/A
Section 27-105-5	YES	NO	N/A

**REMARKS**

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**NOTE:** Any uncollateralized cash balances are disclosed in the GASB 40 Cash and Investment Note to the Financial Statements.

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**EDUCATION ENHANCEMENT FUNDS**

**Section 37-61-33.**

**A. Buildings and Buses Fund. Section 37-61-33(2).**

Determine that the district has used the funds for the purchasing or repairing of school buildings and related facilities, or as a pledge to pay all or a portion of the debt service on debt issued under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99; 37-7-301, 37-7-302 and 37-41-81 or as otherwise allowed by law (e.g., sixteenth section principal loans).

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**B. Classroom Supplies and Instructional Materials Fund.  
Section 37-61-33(3)(a)(iii).**

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1. Select a sample of purchases from Fund 2440 Classroom Supplies and Instructional Materials Fund. (For OSA audits, we will test a minimum of five expenditures per school with a minimum of 25. If there are more than 12 schools, we will adjust this test based on auditor judgment.)

\_\_\_\_\_

3. Determine that the school district used the funds for the acquisition of classroom supplies, instructional materials and/or equipment, including computers and computer software. These funds should not be spent for administrative purposes.

\_\_\_\_\_

3. Determine that the district allocated funds equally among all classroom teachers. The term "teacher" shall mean any employee of the school district who is required by law to obtain a teacher's license from the State Board of Education and is assigned to an instructional area of work, but shall not include a federally funded teacher.

\_\_\_\_\_

4. Per the State Board Policy regarding Enhancement Funds, information on each teacher's allocation, expenditures and balances are to be maintained. At a minimum, each school principal shall maintain a listing of all teachers, the amount allocated to each teacher, the carry forward amount for each teacher, a copy of each spending plan and a copy of all requisitions or purchase requests submitted by the teachers. Verify that the local schools have a system set in place to comply with this requirement.

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5. Ensure that the school had the opportunity to submit orders to spend unspent funds in accordance with the following language:

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**EDUCATION ENHANCEMENT FUNDS - Cont'd**

Section 37-61-33.

*During the 2006 legislative session this language was added to Section 37-61-33(3)(a)(iii): "However, beginning July 1, 2006, any funds allocated under this subparagraph which are not reserved in an approved spending plan but remain unspent on March 31 of the fiscal year in which the funds were allotted must be utilized by the school where the teacher is employed for instructional supply and equipment purposes."*

*Section 37-9-18(3) states - "When conducting an audit of a public school district, the Auditor shall test to insure that the school district is complying with the requirements of Section 37-61-33(3)(a)(iii) relating to classroom supply funds. The audit must include a report of all classroom supply funds carried over from previous years. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all school districts with the requirements of Section 37-61-33(3)(a)(iii), which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate."*

C. Prepare compliance overview working papers. \_\_\_\_\_

Conclusion

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for the Education Enhancement Funds, and the results are adequately presented in the accompanying working papers.

Section 37-61-33(2) - Building and Buses	YES	NO	N/A
Section 37-61-33(3)(a)(iii) - Classroom Supplies	YES	NO	N/A

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REMARKS

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**SCHOOL DISTRICT**  
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Initial & W/P Ref.

**SIXTEENTH SECTION FUNDS**

- A. Sixteenth Section Principal Funds. Section 29-3-113. \_\_\_\_\_
1. Determine that revenues received from the following sources are deposited in the principal funds.
    - a. Easements & R.O.W.'s \_\_\_\_\_
    - b. Sale of lieu land \_\_\_\_\_
    - c. Permanent damages \_\_\_\_\_
    - d. Sale of nonrenewable resources \_\_\_\_\_
    - e. Sale of certain buildings \_\_\_\_\_
  2. Determine that all principal fund cash balances were invested. \_\_\_\_\_
  3. Determine that borrowed principal funds are board approved and for the purpose of:
    - a. Constructing buildings \_\_\_\_\_
    - b. Repairing buildings \_\_\_\_\_
    - c. Equipping buildings \_\_\_\_\_
    - d. Purchase of school buses \_\_\_\_\_
  4. Determine that the loan is subject to at least 4% interest. \_\_\_\_\_
  5. Determine that repayment does not exceed the statutory time limit of twenty years for building purpose loans and ten years for the purchase of school buses. \_\_\_\_\_
  6. Determine that the annual principal and interest payments are paid. \_\_\_\_\_
  7. Determine that no sixteenth section interest funds are transferred to governmental funds after the annual payment date until the payment is made on such loan. \_\_\_\_\_

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Initial & W/P Ref.

**SIXTEENTH SECTION FUNDS - Cont'd**

8. It has been the opinion of the Attorney General's Office that Section 29-3-119 applies to sixteenth section principal funds therefore the auditor should perform the following:

Revenues and Expenditure from Shared Townships

- a. Section 29-3-119. In cases where a township (not a "section") is occupied by two or more school districts, determine that nonexpendable revenues have been shared with/from the other districts.'
- b. Section 29-3-119. Determine that these shared revenues are divided according to applicable percentages derived from the appropriate list of children.
- c. Section 29-3-121. Determine that each school district superintendent completes a list of children and the list is filed with the county superintendent by December 31 of each year.

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B. Sixteenth Section Interest Funds.

- 1. Section 29-3-111. Determine that revenues received from the following sources are deposited in the interest or principal funds.
  - a. Rents and leases
  - b. Interest on loans and investments
  - c. Sale of timber
- 2. Section 29-3-57. Determine that lease payments that are in default in excess of sixty days are terminated or that the board of education found extenuating circumstances present.

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**SIXTEENTH SECTION FUNDS - Cont'd**

- 3. Expenditures.
  - a. Section 29-3-115. Determine that expenditures are for legal purposes. \_\_\_\_\_
  - b. Section 29-3-117. Determine that transfers to the maintenance or building fund are approved by the board. \_\_\_\_\_
  - c. Section 29-3-131. Determine that the expenses incurred by the board for the performance of its duties concerning sixteenth section lands are paid from the proper sixteenth section fund. \_\_\_\_\_
- 4. Revenues and Expenditure from Shared Townships
  - a. Section 29-3-119. In cases where a township (not a "section") is occupied by two or more school districts, determine that expendable revenues have been shared with/from the other districts. \_\_\_\_\_
  - b. Section 29-3-119. Determine that these shared revenues are divided according to applicable percentages derived from the appropriate list of children. \_\_\_\_\_
  - c. Section 29-3-121. Determine that each school district superintendent completes a list of children and the list is filed with the county superintendent by December 31 of each year. \_\_\_\_\_
- C. Forestry Escrow Funds. Section 29-3-47.
  - 1. Determine that at least 15% of the sale of forest products are credited to the fund. \_\_\_\_\_
  - 2. Determine that expenditures are supported by itemized invoices and are forestry related. \_\_\_\_\_
  - 3. Determine that excess funds (other than interest earned) transferred to the governmental funds are approved by the forestry commission. \_\_\_\_\_
- D. Determine if disclosure is needed in the notes to the financial statements. \_\_\_\_\_
- E. Prepare compliance overview working papers. \_\_\_\_\_

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**SIXTEENTH SECTION FUNDS - Cont'd**

**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for the sixteenth section funds, and the results are adequately presented in the accompanying working papers.

Section 29-3-113 - Principal Funds	YES	NO	N/A
Section 29-3-119 - Shared Funds	YES	NO	N/A
Section 29-3-121 - Children's List	YES	NO	N/A
Section 29-3-111 - Interest Funds	YES	NO	N/A
Section 29-3-57 - Lease termination	YES	NO	N/A
Section 29-3-115 - Expenditures - Interest Funds	YES	NO	N/A
Section 29-3-117 - Transfers	YES	NO	N/A
Section 29-3-47 - Forestry Escrow Funds	YES	NO	N/A
Section 29-3-131 - Expenditures	YES	NO	N/A

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**REMARKS**

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**SCHOOL DISTRICT**  
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Initial & W/P Ref.

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**UNEMPLOYMENT COMPENSATION FUND BALANCE**

**Section 71-5-359**

- A Using client copies of W-2 forms, calculate applicable wages (for calendar year 2008).  
Do not include excess above \$6,000, elected officials or part time salaries.

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*NOTE: In-lieu of using the W-2 forms, reasonable tests may be performed.*

- B. Compute 2% of applicable wages and compare to the cash and investment balance of Fund 2820 at June 30, 2009.

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- C. Determine if disclosure is needed in the notes to the financial statements.

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- D. Prepare compliance overview working paper.

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**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for the unemployment compensation fund, and the results are adequately presented in the accompanying working papers.

Section 71-5-359

YES

NO

N/A

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**REMARKS**

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**LIMITATIONS ON AD VALOREM TAXES**

- Section 37-57-1.
- Section 37-57-104.
- Section 37-57-105.
- Section 37-57-107.
- Section 37-57-108.

- A. Obtain the district's request to the levying authority for ad valorem taxes for operations under Sections 37-57-105 & 37-57-1:
1. Review the district's documentation for establishing the base amount. Determine that it is properly calculated (see Section 2 of the form) for any one of the immediate preceding three fiscal years. A fiscal year for the base calculation is defined as an October 1 through September 30 year cash basis. (Section 37-57-107) \_\_\_\_\_
  
  2. Review the percentage increase to the base amount to determine:
    - a. That the increase to the base amount is limited to 4%. (Section 37-57-105) or \_\_\_\_\_
  
    - b. That a public notice was advertised in the local paper and that statutory provisions were followed regarding an increase to the base amount of an amount greater than 4% but not more than 7%. (Section 37-57-105) or \_\_\_\_\_
  
    - c. That an election was held for an increase in the base amount of an amount greater than 7%. (Section 37-57-107) \_\_\_\_\_
  
  3. Determine that other increases to the base are only for:
    - a. New programs mandated by the Legislature. (Local contribution to MAEP is the only qualifying new program for the 2008-2009 fiscal year.) \_\_\_\_\_
  
    - b. New property (i.e., newly constructed properties, existing properties added to the tax rolls, and previously exempted property). (Section 37-57-107) \_\_\_\_\_
  
  4. Determine that all of the ad valorem tax reduction funds were used to reduce the request for ad valorem taxes for operations. \_\_\_\_\_

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**LIMITATIONS ON AD VALOREM TAXES - Cont'd**

B. Determine that the total receipts during the district's fiscal year (July 1, 2008 through June 30, 2009) do not exceed the allowable amount as calculated in Section 2 of the form or that the excess received above the allowable amount has been placed in escrow. (Section 37-57-107)

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C. Determine whether the school district met its uniform minimum ad valorem tax levy as defined by Section 37-151-7(2)(a) by levying the lesser of its 28 mills or the millage rate required to generate 27 % of the basic adequate education program cost, whichever is less, (as certified by MDE) as reduced for the ad valorem tax reduction funds as explained in the note at item A(4) above. [Section 37-57-105(1)]

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D. If the school district issued shortfall notes for the fiscal year ended 6-30-2009, determine that the issuance of the promissory notes is within statutory guidelines. (Sections 37-57-108 and 27-39-333)

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E. Determine whether the school district was subject to the "Notice of Tax Increase" requirements and, if so, determine that the notice requirements were met. (Section 27-39-207)

*Note: Unless the increased revenue in a budget is derived solely from the expansion of a school district's ad valorem tax base, a school district shall not budget an increase in an ad valorem tax effort in dollars for support of the school district unless its first advertises its intention to do so at the same time that it advertises its intention to fix its budget for the next fiscal year.*

The Office of the State Auditor requires the public school district's of the State of Mississippi to follow the wording exactly as prescribed by Section 27-39-207, Miss. Code Ann. (1972).

Section 37-57-107, Miss. Code Ann. (1972) states the following:

"Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section and [Section 37-57-1](#) exceed the increase limitation, then it shall be the mandatory duty of the school board of the school district to deposit such excess receipts over and above the increase limitation into a special account and credit it to the fund for which the levy was made. It will be the further duty of such board to hold said funds and invest the same as authorized by law. Such excess funds shall be calculated in the budgets for the school districts for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which

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such excess funds are collected.”

If revenues collected as a result of the above code section for operations exceed the increase limitation, the auditor should propose adjustments and reflect the transactions in the audited financial statements of the school district.

The law is very specific about the wording of the notice.

F. Determine if the limitations set forth in Section 37-57-104 apply to operating mills.

Limited to 55 mills except as noted below:

If the school district was levying over 55 mills as of July 1, 1997, they were not required to reduce to 55 mills. Also, they could increase up to 3 mills in the aggregate during the period beginning July 1, 1997, and ending June 30, 2003. School districts did not qualify for the 3 mill increase if they were levying 55 mills or less as of July 1, 1997.

Any additional amount that is levied pursuant to Section 37-57-105(1) to anticipated delinquencies and costs of collection shall be excluded from the 55 mill limitation.

G. Prepare compliance overview working paper.

CONCLUSION

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for limitations on ad valorem taxes, and the results are adequately presented in the accompanying working papers.

Section 37-57-1 - Tax levy and collection	YES	NO	N/A
Section 37-57-104(105) - Tax Request - Preparation	YES	NO	N/A
Section 37-57-107 - Limitation (Escrow Calculation)	YES	NO	N/A
Section 37-57-108( 27-39-333) - Shortfall Calculation	YES	NO	N/A

REMARKS

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Ad Valorem Tax Escrow/Shortfall Calculation Form  
For the Fiscal Year Ending June 30, 2009

**Shortfall Borrowing - Operations**

Total local source revenues budgeted as sent to the levying authority: Ad valorem Taxes, Homestead Exemption (Do not include the ad valorem reduction funds per A.G. Opinion to Dr. Bounds)	
and, Other local sources budgeted for FYE 6/30/09, if used below.	
<i>NOTE: Included estimated ad valorem revenue and/or revenues from local sources for the district maintenance fund. The debt service fund(s) would require a separate calculation.</i>	
<b>Total local source revenues budgeted:</b>	
Less: Receipts (cash basis) received from July 1, 2008 through June 30, 2009.	
Ad valorem receipts include:	
Ad valorem tax received from 7/1/2008 through 6/30/2009	
Homestead reimbursement received from 7/1/2008 through 6/30/2009	
Ad valorem tax escrowed at 6/30/2008, (if reduced original request by this amount and used during the 2008-2009 fiscal year)	
Total Ad Valorem Receipts	
Other local source revenues received between 7/1/2008 and 6/30/2009, if used.	
Less: <b>Total actual receipts</b>	
<b>Total amount allowed for Shortfall Borrowing for Operations</b> (The district may have used the Community Disaster Loan Program for this amount.)	
<i>The district will need to maintain documentation separately for shortfalls attributable to ad valorem taxes and other local sources for future year calculations.</i>	
<b>The escrow calculation on the next page should be performed to ensure that the amount collected is not in excess of the "actual" base amount. If the amount requested from the prior year was over-estimated, then the collections and/or proceeds from the shortfall loan could cause an escrow.</b>	

**Shortfall Borrowing – Debt Service Funds**

Total local source revenues budgeted as sent to the levying authority for specific debt service fund	
Less: Total local source revenues received between 7/1/2008 and 6/30/2009	
<b>Total amount allowed for Shortfall Borrowing for Debt Service</b>	

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Ad Valorem Tax Escrow/Shortfall Calculation Form  
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Base Calculation:	
[NOTE: Dates could change if the district used a different base period for their request.]	
Ad valorem tax received during 10/1/2007 through 9/30/2008 (cash basis)	
<i><b>NOTE: District Maintenance (Generated from Operating mills only)</b></i>	
Homestead reimbursement received during 10/1/2007 through 9/30/2008	
Add:	Ad valorem tax reduction funds received for FYE 6/30/2008
Ad valorem tax escrow at 6/30/2007 (Assumes used in 2007 - 2008) (Amount that levy was reduced for escrow)	
Proceeds of shortfall notes issued for FYE 6/30/2008	
Deduct:	Ad valorem tax escrow at 6/30/2008
Total Base	
Percentage increase allowable (Depending on advertisement)	
New program(s) - includes Local Contribution increase, if applicable (Only if ran advertisement)	
New property (Even if no ad was run)	
Total Ad Valorem Tax, Tax Reduction and Homestead Exemption Allowed	
<b>Determination of Tax Escrow:</b>	
Actual receipts from 7/1/2008 through 6/30/2009: (Cash Basis)	
Ad valorem tax received during 7/1/2008 through 6/30/2009	
<i><b>Note: District Maintenance (Generated from operating mills only)</b></i>	
Homestead reimbursement received during 7/1/2008 through 6/30/2009	
Ad valorem tax reduction funds received for FYE 6/30/2009	
Ad valorem tax escrow at 6/30/2008, (Assumes used in 2008 - 2009) (Amount that original levy was reduced for escrow)	
Shortfall note proceeds for FYE 6/30/09 (if issued)	
Total Receipts	
Less: "Total ad valorem tax and homestead allowed" from base calculation above	
Tax Escrow (only if positive number) (This is the amount that the receipts exceed the amount allowed.)	

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**LIMITATIONS ON AD VALOREM TAXES - Cont'd**

[NOTE: Section 37-57-108]

- (1) In the event that the amount of revenue collected or estimated to be collected from local sources, on behalf of a school district during a fiscal year, is less than the amount provided for in the duly adopted budget of said school district for the fiscal year, then the school district may issue promissory notes in an amount and in the manner set forth in Section 27-39-333, not to exceed the estimated shortfall of revenue from local sources, but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. A school district issuing notes under the provisions of this section shall not be required to publish notice of its intention to do so or to secure the consent of the qualified electors or the tax levying authority of such school district.
  
- (2) If the amount collected or estimated to be collected from local sources, on behalf of a school district during a fiscal year, is less than the amount provided for in the duly adopted budget of the school district for the fiscal year as a result of Hurricane Katrina, then the school district may issue promissory notes in an amount and in the manner set forth in Section 27-39-333, not to exceed the estimated shortfall of revenue from local sources, but in no event to exceed (50%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. Any school district issuing promissory notes under this subsection may do so only if such school district receives prior approval by the State Superintendent of Education that the district received damage from Hurricane Katrina. In order for a school district to issue notes under the provisions of this section, the superintendent of the local school district must recommend such action to the school board and the board must duly adopt and enter upon its official minutes a resolution setting forth specific findings as to how the district meets the requirements of this section.
  - a. Revenues collected from local sources on behalf of a school district for any fiscal year shall be deemed to include any funds received or anticipated to be received by the school district from the United States Federal government or any agency thereof for the purpose of replacing the loss of operating funds that otherwise would have been derived from local sources from that fiscal year. (Community Disaster Loan Program - CFDA # 97.030)
  
  - b. Any school district may borrow funds from the United States federal government or any agency thereof to compensate for the loss of revenue collected or estimated to be collected on behalf of the school district from local sources during a fiscal year as a result of Hurricane Katrina may issue its promissory note to the United States federal government or any agency thereof, and may comply with and issue the regulations of the United States federal government or agency thereof regarding such promissory note. Provided, however, that this section does not authorize any school district to levy taxes or to pledge collateral for the security of such promissory note not otherwise allowed by law. The State of Mississippi may sign any promissory note as an equal co-obligor on any such note, and in the event the State of Mississippi signs such promissory note as a co-obligor, the full faith and credit of the State of Mississippi shall be pledged for the payment of such promissory note.

**Section 27-39-333 -**

- (3) Any political subdivision which, during a fiscal year, estimates that the amount of the ad valorem taxes or other anticipated revenue from local sources to be collected therein is less than the amount estimated at the time of formulation of its budget for the fiscal year due to circumstances which were unanticipated at the time of formulation of the budget and which will prevent the political subdivision from meeting its financial obligations may, with the approval of the levying authority for such political subdivision, issue promissory notes in an amount equal to the estimated shortfall of ad valorem taxes and/or revenue from local sources but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall

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for the fiscal year. However, if a school district which, during a fiscal year, estimates that the amount of the ad valorem taxes or other anticipated revenue from local sources to be collected therein is less than the amount provided for in the duly adopted budget of the school district for the fiscal year as a result of Hurricane Katrina, then the school district may issue promissory notes in an amount equal to the estimated shortfall of ad valorem taxes and/or revenue from local sources but in no event to exceed fifty percent (50%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year...

- (4) The legislature inserted, "However, the indebtedness of the school district issuing notes as a result of a shortfall in revenues collected from local sources on behalf of the school district for any fiscal year as a result of Hurricane Katrina shall be repaid in full, including interest thereon in the manner authorized by the school board, during the ten (10) fiscal years, next succeeding the fiscal year in which the promissory note or notes were issued."

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**BUDGETING**

Sections 37-61-19; 37-61-9(4).

- A. Determine that the district did not spend more than "resources available" by reviewing each fund for negative ending fund balances. \_\_\_\_\_
- B. Determine compliance with § 37-61-19 by examining the final amended budget and school board minutes to determine final amended budget was legally adopted on or before October 15, 2009. Document if funds were available to cover the expenditures which exceeded the budget. \_\_\_\_\_

*NOTE: Compliance should be based on expenditures before auditor's adjustments are made, not after.*

- C. Prepare a schedule showing unbudgeted funds. \_\_\_\_\_
- D. Determine if disclosure in the notes to the financial statements is needed. \_\_\_\_\_

*NOTE: Footnote disclosure and legal compliance are both based upon total expenditures compared to total budgeted expenditures by fund and not functional expenditures. Unlike compliance, footnote disclosure should be based on expenditures after auditor's adjustments are made. If this results in footnote disclosure without a compliance violation, the footnote disclosure should state that this "is not in violation of state law since the excesses resulted from auditor's adjustments."*

- E. Test for compliance with the limitations on budgeted expenditures for certain administration costs imposed by Section 37-61-9(4). Also, test to ensure that functions in all expenditure categories to which this administration limitation applies have been properly classified. See note below. \_\_\_\_\_
- F. Prepare compliance overview working paper. \_\_\_\_\_

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**BUDGETING - Cont'd**

**CONCLUSION**

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for budgeting, and the results are adequately presented in the accompanying working papers.

Section 37-61-19 - Budget Preparation	YES	NO	N/A
Section 37-61-9(4) - Limitation of Expenditures to Budget	YES	NO	N/A

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**REMARKS**

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*Note: Legislative Change in 2006 - In determining the allowance for administration costs for purposes of §37-61-9(4), the amount is limited to an amount greater than One Hundred Fifty Thousand Dollars (\$150,000) plus four percent (4%) of the expenditures of all of the Mississippi School Districts each year. (Attorney General Opinion -2008-00389) "Administration costs" are defined as expenditure function codes 2300, 2310, 2320, 2330, 2500, 2510, 2520, 2530, 2540, 2590 per the Mississippi Public School District Financial Accounting Manual.*

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**INVESTMENTS**

Sections 37-59-43 and 29-3-113.

A. Determine that investments are the type authorized by law. These consist of:

1. The sixteenth section principal fund may be invested in:  
(1) any direct obligation issued by or guaranteed in full as to principal and interest by the United States of America, or  
(2) in certificates of deposit issued by a qualified depository of the state of Mississippi as approved by the State Treasurer, or  
(3) in interest-bearing deposits or other obligations of financial institutions in which, and to the same extent as, the State Treasurer is authorized to invest excess state funds under and by virtue of the provisions of Section 27-105-33, or  
(4) in any other type investment in which any other agency, instrumentality or subdivision of the State of Mississippi may invest, except that one hundred percent of said funds are authorized to be so invested.

\_\_\_\_\_

2. Other funds may be invested in:

- a. Bonds or other direct obligations of the United States of America or the state of Mississippi, or of any county or municipality of this state.
- b. Interest-bearing time certificates of deposit or interest-bearing accounts with any financial institution approved for the deposit of state funds.
- c. Any type of investment permitted by Sections 27-105-33(d) and 27-105-33(e). (These sections allow investment in certain indirect obligations of the United States of America, certain direct security repurchase agreements and reverse direct security repurchase agreements, and certain mutual funds.)

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B. Determine that interest earned in excess of \$100 per fund is credited to the investing fund.

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*NOTE: All interest earned on bond and note funds and debt service funds must be credited to and remain with the investing fund.*

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INVESTMENTS - Cont'd

C. For sixteenth section principal fund investments, determine that the rate of interest paid on certificates of deposit is not less than that paid on passbook savings.  
(Section 29-3-113)

\_\_\_\_\_

D. Prepare compliance overview working paper.

\_\_\_\_\_

CONCLUSION

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for investments, and the results are adequately presented in the accompanying working papers.

Section 37-59-43

YES NO N/A

Section 29-3-113 - Sixteenth Section Principal Funds

YES NO N/A

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REMARKS

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REVENUE ANTICIPATION NOTES

Section 37-59-37.

A. Determine that:

1. The money was borrowed by the board of the school district. \_\_\_\_\_
2. The money borrowed did not exceed the amount of taxes and other revenues collected during the last preceding fiscal year, unless the tax levy for the current fiscal year has been made, then the amount borrowed shall not exceed the estimated amount of taxes and other revenues to be collected during the current fiscal year. \_\_\_\_\_
3. The notes are (were) repaid within fourteen (14) months from the date of issuance out of the taxes and other revenues in anticipation of which such money was borrowed. For Hurricane Katrina extraordinary damage, the State Board of Education can declare an extreme emergency financial situation in a school district which allows the local school board to increase the time within which the money borrowed under this section to be repaid to twenty-four months after the date of such borrowing. \_\_\_\_\_
4. The money borrowed was used for the current fiscal year's expenses or for the current fiscal year's interest maturities on bonded debt. \_\_\_\_\_

B. Determine that the money borrowed bears interest at a rate not greater than 11%. (Section 75-17-105) \_\_\_\_\_

C. Prepare compliance overview working paper. \_\_\_\_\_

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REVENUE ANTICIPATION NOTES Cont'd

CONCLUSION

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for revenue anticipation notes, and the results are adequately presented in the accompanying working papers.

Section 37-59-37	YES	NO	N/A	W/P. Ref. _____
Section 75-17-105	YES	NO	N/A	W/P. Ref. _____

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REMARKS

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[These are short-term borrowings and should be accounted for as a current liability on the balance sheet. No entry should be made for these proceeds on the Statement of Revenues, Expenditures and Changes in Fund Balance - Governmental Funds.]

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APPROPRIATE CODING AT THE FUNCTION LEVEL FOR EXPENDITURES

Section 37-9-18.

A. Select a sample of payroll and non-payroll expenditures. \_\_\_\_\_

B. Determine whether coding at the function level is correct and appropriate. Please examine coding to determine whether the expenditures should be coded to 1000, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 3000, 4000, 5000, 6000, etc. to establish that testing is performed at the reporting level within all of the reports including the Schedule of Instructional, Administrative and Other Expenditures - Governmental Funds. \_\_\_\_\_

[This test can be performed in conjunction with other payroll and non-payroll expenditure testing.]

*NOTE: § 37-9-18. (3)(b) When conducting an audit of a public school district, the State Auditor shall test to insure correct and appropriate coding at the function level. The audit must include a report showing correct and appropriate functional level expenditure codes in expenditures by the school district. Compliance standards for this audit provision shall be established by the Office of the State Auditor. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all public school districts with correct and appropriate coding at the function level, which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate.*

C. Prepare compliance overview working paper. \_\_\_\_\_

CONCLUSION

We have performed procedures to sufficiently achieve the audit objectives for the examination of the legal compliance requirements for appropriate coding at the function level for expenditures, and the results are adequately presented in the accompanying working papers.

Section 37-9-18 YES      NO      N/A

REMARKS

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**PUBLIC EMPLOEES' RETIREMENT SYSTEM OF MISSISSIPPI**

**Section 25-11-127.**

Section 25-11-127 MS Code Ann. (1972) addresses reemployment of PERS retirees by an entity covered under the PERS System. Before an entity hires an individual as an employee, the entity should verify if the prospective employee is a current retiree of the Public Employees' Retirement System (PERS) receiving retirement benefits.

If the prospective employee is a PERS retiree, and the person is determined to be an employee (v. a true independent contractor), the entity should have filed with PERS the PERS Form 4B "Certification / Acknowledgment of Reemployment of Retiree" within five days of employment.

If the individual is a PERS retiree and has been hired as a true independent contractor, the entity should have completed and filed with PERS the "Employee vs. Independent Contractor Form" to determine the prospective employee's status (Employee vs. Independent Contractor).

**Audit Procedures:**

A) Inquire of the Human Resources Department / Payroll if the entity has employed any individuals either as an employee or as a contractual employee that are also current PERS retirees. Another source of this information could come from inquiry about the existence of any individuals on the payroll register that do not have retirement withholdings etc withheld from their check.

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B) Inquire of the Human Resources Department/Payroll if the entity has engaged any individuals as true independent contractors who are also current PERS retirees.

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C) If the entity has employed retirees either as employees or as true independent contractors, verify that the appropriate forms were completed and filed with PERS. If the forms were not filed, advise the agency that they should be filed and prepare a memo to your supervisor for notifying the PERS that the entity has not complied with the law.

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D) On a test basis, where a retiree has been reemployed as an employee, verify that the retiree has not been paid more than allowed by law as noted on the Form 4-B. If the reemployed retiree has been paid more than is allowed by law (based on the State's fiscal year regardless of the entity's fiscal year), prepare a memo to your supervisor for notifying PERS that the entity and retiree have not complied with the law.

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**OTHER TESTS:**

As required by SAS 54, prepare a legal compliance test in any other state legal compliance area for which noncompliance could cause a direct and material misstatement of the general purpose financial statements.  
Document procedures performed.

\_\_\_\_\_

Also, consider whether related party transactions require disclosure due to the Mississippi Ethics statutes.

**CONCLUSION**

	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____
	YES	NO	N/A	W/P. Ref. _____

**REMARKS**

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**COMPLETION**

- A. Prepare findings and recommendations, if necessary. \_\_\_\_\_
  
- B. Prepare any audit exception schedules. \_\_\_\_\_
  
- C. Index working paper and accumulate for file. \_\_\_\_\_

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**REMARKS**

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